



OFFICE OF THE POLICE COMMISSIONER

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April 22, 2010

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Kinleung Wong**
Tax Registry No. 937753
Housing Borough Manhattan
Disciplinary Case No. 82994/07

The above named member of the service appeared before Assistant Deputy Commissioner John Grappone on August 13, 2009, and was charged with the following:

DISCIPLINARY CASE NO. 82994/07

1. Said Police Officer Kinleung Wong, assigned to the 68th Precinct, while off-duty, on or about November 23, 2006, at a location known to this Department, in Kings County, did wrongfully and without just cause, cause physical injury to another person, known to this Department.

P.G. 203-10, Page 1, Paragraph 5

N.Y.S. PENAL LAW SECTION 120.00(1)

PROHIBITED CONDUCT

ASSAULT IN THE THIRD DEGREE

2. Said Police Officer Kinleung Wong, assigned as indicated in Specification No. 1, on or about the date and location indicated in Specification No. 1, having been involved in an unusual police occurrence, did fail and neglect to request the response of the patrol supervisor, precinct of occurrence, as required.

P.G. 212-32, Page 1, Paragraph 2

COMMAND OPERATIONS

In a Memorandum dated January 19, 2010, Assistant Deputy Commissioner Grappone found the Respondent Guilty in part of Specification No. 1, and accepted Respondent Wong's Pleading Guilty to Specification No. 2. Having read the Memorandum and analyzed the facts of this instant matter, I approve the findings, but disapprove the penalty.

With a consideration of the totality of issues and circumstances in this matter, it is clear that the misconduct committed here involved serious deficiencies in judgment and integrity.

As such, in addition to the forfeiture of 30 Suspension days already served, as was recommended, the Respondent is also **DISMISSED** from the New York City Police Department; however, this penalty of dismissal will be held in abeyance pursuant to Section 14-115 (d) of the NYC Administrative Code for a period of one year, during which time the Respondent will remain on the force at the Police Commissioner's discretion and may be terminated at any time without a further hearing.

A handwritten signature in black ink, appearing to read 'Raymond W. Kelly', with a large circular flourish at the beginning.

Raymond W. Kelly
Police Commissioner



POLICE DEPARTMENT

January 19, 2010

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Kinleung Wong
Tax Registry 937753
Housing Borough Manhattan
Disciplinary Case No. 82994/07

The above-named member of the Department appeared before the Court on August 13 and October 5, 2009, charged with the following:

1. Said Police Officer Kinleung Wong, assigned to the 68th Precinct, while off-duty, on or about November 23, 2006, at a location known to this Department, in Kings County, did wrongfully and without just cause, cause physical injury to another person, known to this Department.

P.G. 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT
N.Y.S. PENAL LAW SECTION 120.00(1) – ASSAULT IN THE THIRD
DEGREE

2. Said Police Officer Kinleung Wong, assigned as indicated in Specification # 1, on or about the date and location indicated in Specification # 1, having been involved in an unusual police occurrence, did fail and neglect to request the response of the patrol supervisor, precinct of occurrence, as required.

P.G. 212-32, Page 1, Paragraph 2 – COMMAND OPERATIONS

The Department was represented by Amy Avila, Esq., Department Advocate's Office, and the Respondent was represented by Craig Hayes, Esq.

The Respondent, through his counsel, entered a plea of Not Guilty to Specification No. 1. He pleaded Guilty to Specification No. 2 and testified in mitigation

of the penalty. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

The Respondent is found Guilty in part and Not Guilty in part of Specification No. 1. The Respondent, having pleaded Guilty, is found Guilty of Specification No. 2.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Sergeant John Baldino and Tim Cheng as witnesses.

Sergeant John Baldino

Baldino, a 15-and-a-half-year member of the Department, is currently assigned to the Brooklyn South Investigations Unit. In January 2007, he was assigned to investigate an "unidentified case." Baldino explained the case had been initiated when a man named Tim Cheng made a complaint to the Internal Affairs Bureau (IAB) about being attacked by a police officer. Although initial IAB investigators had spoken with a witness, [REDACTED] (who has since resigned from the Department), they had not yet identified the subject officer before the case was assigned to Baldino.

On March 5, 2007, Baldino spoke with Cheng. Cheng informed Baldino that he had gotten the cell phone number of his attacker from a waitress at the bar where the incident took place. By calling that number, Baldino learned that the Respondent was the alleged attacker. Cheng subsequently identified the Respondent as his attacker in a photo

array and in a line up. As a result, the Respondent was arrested on May 21, 2007. The criminal case against the Respondent ended with the Respondent pleading guilty to harassment.

As part of his investigation, Baldino subpoenaed the Respondent's cell phone records (Department's Exhibit [DX] 1). The records indicate that at 1:30 a.m. on November 23, 2006, the Respondent received a call from [REDACTED]. This telephone call took place approximately five minutes after a 911 call was made concerning the physical altercation between the Respondent and Cheng. Between 1:33 a.m. and 2:57 a.m., the Respondent received four additional calls from [REDACTED] and placed eight outgoing calls to him. Baldino learned that the Respondent and [REDACTED] were friends and that [REDACTED] was present during the incident. When [REDACTED] spoke to IAB investigators on the day of the incident, he denied that the Respondent was involved in the incident, claiming that the Respondent was in the bathroom at the time. [REDACTED] did not identify himself as a member of the Department and resigned from the Department shortly afterwards.

The Respondent's cell phone records also indicate that at 1:25 a.m. (which is approximately the same time that the 911 call was made), the Respondent received a call from Kim Wah Tsang, who worked at the bar where the incident took place.¹ Between 1:31 a.m. and 2:08 a.m., the Respondent received two additional calls from Kevin and placed two outgoing calls to him.

During the course of his investigation, Baldino attempted to speak with Man Hin Lee, a friend of the Respondent's, who was present at the bar during the incident. Baldino left a message for Lee, but Lee never called him back. The Respondent's cell

¹ Tsang is referred to at various times throughout the trial as Kevin.

phone records indicate that the Respondent placed four outgoing calls to Lee between 2:12 a.m. and 2:21 a.m.

On cross-examination, Baldino testified that he interviewed Cheng two or three times. Cheng told him that the incident occurred at a bar called the OK Café. The altercation took place over a drinking game. Baldino never asked Cheng how much alcohol he had to drink or if he was intoxicated. Baldino agreed that alcohol could affect a person's memory. At the time of the incident, Cheng had been at the OK Café for less than an hour. Baldino never asked Cheng where he had been earlier in the night. Cheng was with his girlfriend, [REDACTED].²

On redirect examination, Baldino testified that the Respondent never provided medical records or photographs of injuries he sustained in the altercation with Cheng.

Tim Cheng

Cheng has been employed as an accountant for six years. He testified that in November of 2006, he had known [REDACTED] for a year or a year-and-a-half, and he knew that [REDACTED] was a police officer. On November 23, 2006, [REDACTED] invited Cheng to a bar. Cheng arrived at the bar after midnight in the company of his girlfriend, [REDACTED]e. According to Chen, he had not consumed any alcohol earlier in the night. At the bar, [REDACTED] introduced him to a man they called Johnny (subsequently identified as the Respondent). Lee was also there. They started to play drinking games. For each round of the game, the loser would have to drink a one-and-a-half ounce shot of beer. Cheng testified that the Respondent lost several rounds but then refused to drink. Cheng teased the Respondent about losing, and the Respondent became aggressive and started

² [REDACTED] is referred to at various times throughout the trial as [REDACTED].

punching him in the face. According to Cheng, at no point did he punch the Respondent, threaten him, or try to force him to participate in the game. Cheng stated that after the Respondent punched him several times with a closed fist, he fell onto a table and lost his vision. After blacking out for a couple of seconds, he saw the Respondent exiting the bar. He then called 911. When Cheng asked [REDACTED] for information about the Respondent, [REDACTED] refused to tell him anything except that the Respondent was a police officer in Brooklyn. [REDACTED] made a second call to 911 a minute or two later. By the time police officers responded to the scene, [REDACTED] had left the bar.

[DX 4 is a compact disc recording of Cheng and [REDACTED]'s 911 calls. DX 4A is a transcript of Cheng's call, and DX 4B is a transcript of [REDACTED]'s call. In his call, Cheng stated that there was "a cop who is hitting me. . . There was a cop beating me up." Cheng informed the operator that he was injured and needed an ambulance. The call was made at 1:25 a.m., and Cheng indicated that the incident had taken place approximately 20 minutes earlier. In the second 911 call, [REDACTED] stated that her boyfriend had been hit by a Chinese police officer.]

Cheng was taken to [REDACTED] Hospital, where he was treated for a fractured nose and internal bleeding in his eyes. He also sustained bruising around both of his eyes. He got stitches in his left eye, and he had to put drops in his eyes two or three times a day. As a result of his injuries, he missed five to seven days of work. He also had to get follow-up medical treatment for his eyes six or seven times. Cheng stated that to this day his left eye still constantly twitches. A doctor has told him that the twitching may be due to permanent nerve damage from the incident. [DX 2 is a copy of Cheng's medical records from the day of the incident. The records indicate that Cheng sustained multiple

contusions to the face, a nasal fracture, and received three stitches to close a laceration on his eyelid. DX 3 consists of eight photographs of Cheng's injuries. Cheng took the photographs himself on the day of the incident using his cell phone.]

On cross-examination, Cheng testified that before he went to the OK Café, he went out to dinner with [REDACTED]. He did not consume any alcohol before or during dinner. Cheng knew Lee before the incident. They would hang out together once in a while and had each others' cell phone numbers. When he arrived at the bar, Cheng stated to play the drinking game with [REDACTED] and Lee. Meanwhile, the Respondent and [REDACTED] were sitting two to three feet away and were playing on their own. Cheng stated that he did not lose many rounds of the game and had consumed only half a bottle of beer. When [REDACTED] and Lee wanted to take a break from the game, Cheng started to play with the Respondent. During 20 or 30 minutes of play with the Respondent, Cheng lost three to five times. According to Cheng, he did not drink more than one bottle of beer throughout the course of the entire night, and he was not intoxicated.

At one point, the Respondent went to the bathroom. When the Respondent returned to the table, Cheng told him to finish his beer since he (the Respondent) had lost several rounds but did not drink anything. The Respondent responded to Cheng by asking something to the effect of, "If I am not going to [drink], are you going to make me?" Cheng reiterated that when he teased the Respondent about losing, the Respondent started to punch him. At the time, the Respondent and Cheng were standing approximately one foot apart and facing each other. According to Cheng, he never took a swing at the Respondent or grabbed him by the throat. The altercation occurred 30

minutes to an hour after Cheng's arrival at the bar. [Respondent's Exhibit A is a diagram of the bar.]

Cheng testified that he was friends with four people at the bar that night (including [REDACTED] e, Lee, and [REDACTED]). None of those people appeared at trial to testify on his behalf. He explained that he and [REDACTED] have broken up, he no longer talks to Lee, and he has not spoken to [REDACTED] for a long time.

On redirect examination, Cheng testified that the drinking game he played with the Respondent did not mean very much to him. Although he teased the Respondent about it, it did not really bother him that the Respondent was not following the rules.

The Respondent's Case

The Respondent called Kim Wah Tsang and Man Hin Lee as witnesses, and he testified in his own behalf.

Kim Wah Tsang³

Tsang, who is currently employed as a bus driver, was working as a bartender at the OK Café on November 23, 2006. He testified that at one point that night, he was talking to the Respondent at the bar when Cheng approached and loudly told the Respondent something to the effect of, "You need to finish this bottle of beer. If you don't finish the bottle of beer I will hit you." According to Tsang, Cheng seemed upset and was definitely not sober. Tsang explained that Cheng was not walking straight. Tsang testified that when the Respondent told Cheng that he did not wish to drink any

³ Tsang's testimony was translated from Cantonese by Kelly Pun. Pun, who has worked as an interpreter for approximately five years, has interpreted in 20 to 30 previous court proceedings. No court has ever rejected her qualifications nor prohibited her from interpreting testimony,

more, Cheng extended his hand and placed it on the Respondent's neck. Cheng then raised his other hand and looked as if he was about to punch the Respondent with a closed fist. At that point, the Respondent defended himself, punching Cheng two or three times. Tsang ran out from behind the bar and separated Cheng and the Respondent. As the Respondent turned to leave the bar, two other people had to hold Cheng back because Cheng wanted to continue the fight. According to Tsang, at no point did the Respondent raise his fists or touch Cheng before Cheng initiated physical contact. Before that night, Tsang had seen the Respondent at the bar two or three times. He had never before seen Cheng.

On cross-examination, Tsang testified that while he was working as bartender, he was responsible for taking orders, keeping the liquor stocked, waiting on customers, handling payments, and supervising other workers. Most of the time he remained behind the bar, but sometimes he had to step away. On the night of the incident, there were two or three customers sitting at the bar, and there was music playing at a medium volume. Tsang did not know if the Respondent had his cell phone number. Although Tsang did not have the Respondent's number, a friend may have used his (Tsang's) cell phone to call the Respondent. Tsang has since changed his cell phone number, and he cannot recall what his number was back then. Tsang testified that he did not speak to the Respondent about the incident after the Respondent left the bar that night. Tsang never gave the police a statement about the incident.

Man Hin Lee

Lee currently works at the post office. He has known the Respondent since high school and Chang since junior high school. On November 23, 2006 he was at the OK Cafe with [REDACTED] and another friend when he called Cheng to invite him over. Cheng told Lee that he was out drinking. Cheng later arrived at the bar, accompanied by [REDACTED]. They all played a drinking game. After the game, the Respondent went to the bathroom. When the Respondent returned, Lee heard Cheng shouting "pretty loud," telling him (the Respondent) to finish the bottle of beer. Lee described Cheng as "a little bit angry, a little bit drunk." Lee stated that he observed Cheng grab the Respondent around the neck area and raise his hand in a fist. A fight ensued. When Lee and another person grabbed Cheng to separate him from the Respondent, Cheng struggled to get free.

On cross-examination, Lee testified that he left the bar immediately after the altercation occurred. He never made an attempt to contact the police about the incident, even after he learned that the Respondent had been arrested. According to Lee, he has never received a telephone call from Baldino. Lee and the Respondent have been friends for a long time. Although he and Cheng knew each other when they were younger, in 2005 they saw each other for the first time in many years. Lee stated that although it was possible that he and the Respondent spoke on the telephone on the night of the incident, he did not recall having a telephone conversation with him. Lee was drinking beer that night, but he could not recall exactly how much.

The Respondent

The Respondent is currently assigned to the Housing Borough Viper 6. Prior to joining the Department in January 2005, he spent four years serving in the United States Navy. He was deployed to the Mediterranean after September 11, 2001, and he was ultimately honorably discharged. He has been the subject of no prior Department discipline. In 2006, he was assigned to the 68 Precinct.

On the night of the incident, he met Ka Kau and Lee at the OK Café. They spent a half hour drinking beer and watching television before Cheng and [REDACTED] arrived. The Respondent had never before met Cheng. They started to play a drinking game, with the Respondent and [REDACTED] sitting together. The loser of each round was supposed to drink half of a small cup of beer. The Respondent won more rounds than [REDACTED]. After ten or 15 minutes of play, Cheng took [REDACTED]'s place in the game. According to the Respondent, Cheng was loud and belligerent and seemed drunk. He explained that Cheng was not stable and had glassy, red eyes. The Respondent and Cheng played the drinking game for approximately 15 minutes, and the Respondent won the majority of the rounds. The Respondent stated that Cheng became very upset about losing and wanted to increase the bet from half a cup to a full cup of beer. According to the Respondent, Cheng started to curse, yell, and wave his hands. Cheng told the Respondent, "You mother fucker . . . I can beat you on the game." The Respondent told Cheng that he did not want to play anymore, and then he got up to go to the bathroom.

While the Respondent was in the bathroom, [REDACTED] entered and told him that Cheng was drunk and looking to start a fight. After hearing this information from [REDACTED], the Respondent went to stand at the bar instead of returning to the table where

Cheng was sitting. The Respondent explained that he was trying to avoid confrontation with Cheng. The Respondent was standing at the bar talking to Tsang when Cheng approached him with a beer in his hand. When Cheng told the Respondent that he wanted to continue playing the drinking game, the Respondent reiterated that he did not want to play any longer. Cheng told the Respondent that if he did not play anymore, he had to drink an entire beer. The Respondent told Cheng that he was not going to drink. At the time, there were three or four feet in between the Respondent and Cheng. Cheng, who was very mad and yelling, threatened to beat the Respondent up if he did not drink. The Respondent testified that when he repeated to Cheng that he was not going to play or drink anymore, Cheng grabbed his neck and choked him. Meanwhile, Cheng used his other hand to punch the Respondent in the right cheek. The Respondent stated that he feared for his safety and wanted to free himself from the chokehold, so he punched Cheng in the face until Cheng released him. According to the Respondent, he punched Cheng two or three times. The people at the bar then pulled the Respondent and Cheng apart from each other. The Respondent threw no additional punches or kicks in Cheng's direction. At that point, the Respondent could not see that Cheng was injured. The Respondent went to his car and drove away.

The Respondent testified that he knows he should have remained at the scene of the incident, called 911, and waited for a patrol supervisor to arrive. He explained that he fled the scene that night because he was new on the job and was also scared for his safety. According to the Respondent, Cheng remained hostile and wanted to continue fighting. The Respondent also knew that after leaving the scene, he should have reported the altercation at the local precinct. He explained that he did not report it to anybody in

the Department because he was afraid of losing his job. At the time, he had been a member of the Department for less than two years and was still on probation. After leaving the bar, he called [REDACTED] on the telephone. He spoke to [REDACTED] two or three times, asking [REDACTED] if he should return to the bar. [REDACTED] told Cheng not to return because friends of Cheng were looking for him, wanting to beat him up.

The following May, the Respondent was arrested for assaulting Cheng. In Brooklyn Criminal Court, the Respondent was offered a plea bargain of harassment, which is a violation. The Respondent testified that even though he had acted in self defense, he accepted the plea offer because his attorney told him that it was in his best interest to do so.

On cross-examination, the Respondent testified that he learned in the Police Academy that a probationary police officer could be terminated from the Department without a trial. The OK Café was located within the confines of his assigned precinct, the 68 Precinct. He, therefore, knew where the station house was located and the people who worked there. It would have been easy for him to call or walk into the 68 Precinct station house that night. He testified that he had nothing to hide since he was the victim in the altercation. He conceded that he was, nevertheless, worried about being recognized had on-duty personnel responded to the scene. He continued that he was not worried about being found unfit for duty. According to the Respondent, [REDACTED] never told him that on-duty officers and an ambulance ultimately responded to the bar. Nor did [REDACTED] tell him about speaking to an investigator from IAB. The Respondent stated that he did not recall speaking to Lee or Tsang on the telephone shortly after leaving the bar. While the Respondent did have contact with them in the weeks and months after the incident, they

never told him anything about the police and ambulance arriving at the bar or about receiving a telephone call from Baldino. The Respondent testified that he sustained a bruise when he was punched by Cheng, but he did not receive any medical treatment for it. Nor did he photograph the bruise or miss any work because of it. Nobody at work ever asked him about the bruise. He stated that he accepted the plea bargain even though he did nothing wrong. Criminal court issued an order of protection on behalf of Cheng, prohibiting the Respondent from having contact with Cheng for a period of two years.

FINDINGS AND ANALYSIS

The Respondent has been charged with, wrongfully and without just cause, causing physical injury to Cheng. It is not disputed that the Respondent and Cheng were involved in a physical altercation after playing a drinking game together in a bar. Nor is it disputed that during the course of the altercation, the Respondent punched Cheng multiple times in the face, causing Cheng to sustain multiple contusions to the face, a nasal fracture, and a laceration on the eyelid that required three stitches to close. According to Cheng, his injuries caused him to miss five to seven days of work, and he had to get follow-up medical treatment for his eyes six or seven times. Furthermore, his left eye still twitches, possibly due to permanent nerve damage from the incident.

Cheng testified that that when he teased the Respondent about losing the drinking game, the Respondent became aggressive and started punching him in the face.

According to Cheng, at no point did he punch the Respondent or threaten him with violence. The Respondent, in contrast, testified that he acted that night in self defense because a belligerent, intoxicated Cheng initiated the altercation by grabbing him by the

neck and choking him with one hand and punching him in the cheek with the other hand. According to the Respondent, he sustained a bruise from Cheng's punch, but he did not receive any medical treatment for it, photograph it, miss any work because of it, or get asked about it by anybody at work.

The Respondent's version of the incident was consistent in part with the testimony provided by Tsang and Lee, two eyewitnesses to the altercation. Both Tsang and Lee testified that Cheng was upset and not sober, had one hand on the Respondent's neck, and raised his other hand in a fist. Where the Respondent's version of the incident differs from the eyewitnesses is that neither eyewitness observed Cheng actually punch the Respondent. Due to the total lack of evidence of any injury suffered by the Respondent, the Court does not believe his self-serving assertion that he was punched by Cheng. Even if the Court were to assume that the rest of the Respondent's testimony were true, however, this would still be a case of the Respondent using unjustifiable force. While a police officer (whether on or off duty) certainly has the right to defend himself from danger, he also has a duty to de-escalate potentially dangerous situations. A review of the medical records and photographic evidence of the injuries sustained by Cheng convinces the Court that instead of using the minimum amount of force necessary to extricate himself from the situation, the Respondent exercised a level of force that went above and beyond what was warranted. By doing so, he took himself from a position of self defense to one of aggressor.

The Court's decision is also based on the fact that the Respondent accepted a plea offer in criminal court, pleading guilty to harassing Cheng. Although the Respondent claimed that he accepted the offer only because he was advised to do so by his attorney,

this Court cannot disregard his criminal court plea. Thus, regardless of how the altercation between the Respondent and Cheng began, the Court can assume that the Respondent's actions toward Cheng constituted the Penal Law violation of harassment. Although the Department has not charged the Respondent with harassment, the Court finds him Guilty of the Patrol Guide section with which he has been charged. Patrol Guide section 203-10, Page 1, Paragraph 5 stands for "conduct prejudicial to good order, efficiency or discipline of the Department" being prohibited conduct. Off-duty harassment by a police officer clearly falls under this section.

The Respondent has also been charged with the penal law misdemeanor of assault in the third degree. According to New York State Penal Law Section 120.00(1), a person is guilty of assault in the third degree when "with intent to cause physical injury to another person, he causes such injury to such person." The nature of the injuries that the Respondent inflicted on Cheng is a strong showing that the Respondent intended to cause physical injury to Cheng. The Court therefore finds him guilty of this crime.

Based on the foregoing, the Respondent is found Guilty as charged in this specification.

PENALTY

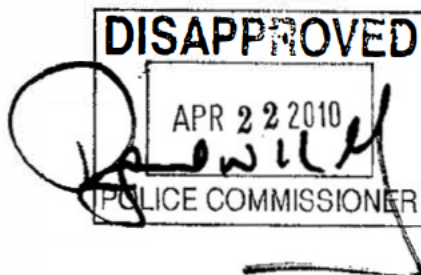
In order to determine an appropriate penalty the Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y. 222 (1974).

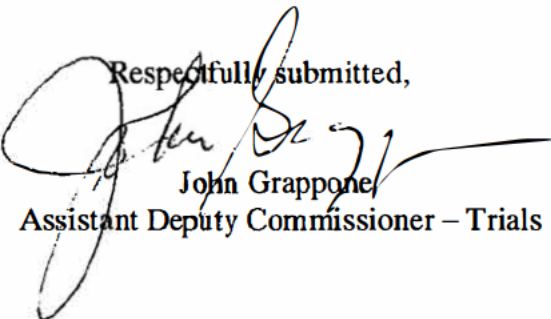
The Respondent was appointed to the Department on January 10, 2005. Information from his personnel folder that was considered in making this penalty recommendation is contained in the attached confidential memorandum.

The Respondent has been found Guilty of, wrongfully and without just cause, causing physical injury to Cheng. In addition, he has pleaded Guilty to failing to request the response of the patrol supervisor after being involved in an unusual police occurrence. The Respondent testified that one reason he fled the bar after the altercation with Cheng was because he was scared for his safety. If this were truly the case, though, he could have called 911 from a safe location or gone to the 68 Precinct station house in person to report the incident. Having done neither of these things, the Respondent explained that he did not notify the Department at all because he was still on probation and was afraid of losing his job. The Court does not consider a Respondent's fear of getting in trouble to be effective mitigating testimony. Moreover, the Respondent's flight in this case is consistent with the Court's determination that he was not merely the innocent victim of an attack by Cheng. The Respondent left the bar and did not tell the Department about the altercation because he knew he was guilty of wrongdoing. The Court has further issue with the Respondent's claim that he was never informed that the police and an ambulance responded to the bar in response to 911 calls made by Cheng and [REDACTED] and that there was an IAB investigation into the incident. Telephone records indicate that multiple calls were made between the Respondent, [REDACTED], Tsang, and Lee during the hours immediately following the altercation. Furthermore, the Respondent himself testified that he had contact with Lee and Tsang in the weeks and months after the incident. It seems highly unlikely that none of these people ever told the Respondent about the police and medical response at the bar on the night of the altercation or about subsequently being contacted by an IAB investigator.

In Disciplinary Case No. 79146/03, a five-year member with no prior disciplinary record forfeited 20 vacation days for punching a man in a bar, subsequently getting arrested for assault, and failing to notify the Department about the incident. In Disciplinary Case No. 81726/06, a two-year probationary member forfeited 20 vacation days for becoming involved in a physical altercation in a bar and failing to notify the Department. In Disciplinary Case No. 73346/98, another probationary member forfeited 29 days served on suspension for becoming involved in a bar fight, getting arrested for assault, and failing to report the incident. In that case, the Respondent had his probationary period extended by two months.

In light of the severity of the injuries that the Respondent inflicted upon Cheng and his failure to provide a mitigating explanation for not requesting the response of the patrol supervisor to the unusual police occurrence, it is the Court's recommendation that he forfeit the 30 suspension days that he has already served for this misconduct. The Assistant Department Advocate has requested that the additional penalty of dismissal probation be imposed in this case, but the Court does not see any need for it. There is no clear precedent for it nor any indication of a problem which would require ongoing supervision.




Respectfully submitted,

John Grappone
Assistant Deputy Commissioner – Trials

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER KINLEUNG WONG
TAX REGISTRY NO. 937753
DISCIPLINARY CASE NO. 82994/07

In 2007 and 2008, the Respondent received an overall rating of 4.0 “Highly Competent” on his annual performance evaluation. He has been awarded one medal for Excellent Police Duty. [REDACTED]
The Respondent has no prior formal disciplinary record.

For your consideration.



John Grappone
Assistant Deputy Commissioner – Trials